



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Kyung-geun LEE et al.

Serial No. 10/026,658

Group Art Unit: 2653

Confirmation No. 7011

Filed: December 27, 2001

Examiner: Huber, Paul W.

For: HIGH DENSITY OPTICAL RECORDING MEDIUM AND METHOD OF RECORDING
DATA ON THE SAME

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed September 27, 2004, having a shortened one-month statutory period for a response set to expire on October 27, 2004. The following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect **Group II, claims 5-7** in response to the preliminary restriction requirement set forth in the Office Action.

II. Applicants Traverse the Requirement

Insofar as Group I and Group III are concerned, it is believed that claims 1-4, 8-11 and 12-17 are so closely related to elected claims 5-7 that they should remain in the same application. The elected claims 5-7 are directed to a method of recording and/or reproducing data on an optical recording medium, and claims 1-4, 8-11 and 12-17 are drawn to an optical recording medium and a method of recording and/or reproducing data. There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both method and product claims in the same field of technology. While it is noted that the Examiner has identified different classifications for the product and method claims, it is believed that classification is not conclusive on the question of restriction. It is believed, moreover, that evaluation of both sets of claims would not provide an

undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited in the Group I and Group III claims by filing a divisional application.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)-§806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

III. Conclusion

Upon review of references involved in this field of technology, when considering the optical recording medium recited by the Group I claims, the method of recording and/or reproducing data recited by the Group III, and elected claims 5-7 drawn to a method of recording and/or reproducing data on an optical recording medium, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

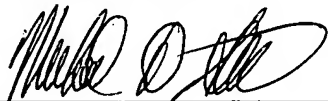
If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 19-3935.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 10/27/04

By: 
Michael D. Stein
Registration No. 37,240

1201 New York Ave, N.W., Ste. 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501